IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 14644 of 2003

Between:

M. Siva Prasad, S/o. Peda Katmaiah,
R/o. Type I, Block no. 17, Quarter No. 692,
Saligramapuram, Visakhapatnam-530 024

..... PETITIONER

AND

1 Visakhapatnam Port Trust, Represented by its Chairman,
Visakhapatnam
2 Dy.Chairman, Visakhapatnam Port Trust,
Visakhapatnam
3 Traffic Manager, Visakhapatnam Port Trust & Disciplinary Authority,
Visakhapatnam

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any writ order or direction particularly one in the nature of Mandamus declaring all the proceedings leading up to and including Order No. QPER/D.CELL/MSP/130/02 dated 31.12.2002 of the 2nd respondent confirming the proceedings No. TRE/PC/CMJP/MSP and No.TEE/102 dated 01.06/07.2002 of the 3rd respondent, including the endorsement dated 26-5-2003 imposing the punishment of Reduction of pay to the minimum of the scale i.e. to Rs. 3700/- from Rs. 4555/- as illegal, arbitrary, unconstitutional and consequently by nullifying the same direct the respondent to restore the petitioners pay to Rs. 4555/- together all future consequential and attendant benefits.

Counsel for the Petitioner: DR.P.B.VIJAY KUMAR

Counsel for the Respondents: MR.K.SRINIVASA MURTHY

The Court made the following :

The Hon'ble Sri Justice

K.C. Bhanu

W.P. No. 14644 of 2003

O R D E R:

This writ petition is filed seeking to declare the proceedings in Order No.QPER/D.CELL/MSP/130/02 dated 31.12.2002 of the 2nd respondent confirming the proceedings No.TRE/PC/CMJP/MSP and No.TEE/102 dated 01.06/07.2002 of the 3rd respondent imposing punishment of reduction of pay to the minimum of the scale i.e. from Rs.4,555/- to Rs.3,700/- as illegal and arbitrary.

Heard the learned counsel for the petitioner and the learned standing counsel for the respondents.

The facts are in narrow compass. The petitioner was given a charge sheet as he failed to inform the employer about his arrest in connection with a criminal case for which the petitioner gave an explanation. Thereafter a regular departmental enquiry was conducted. In the departmental enquiry the disciplinary authority imposed punishment of reducing the scale of pay to the minimum for a period of two years with cumulative effect. An appeal was filed but it was rejected. Challenging the same, the present writ petition is filed.

A detailed counter affidavit has been filed by the respondents stating that the enquiry was conducted as per rules and as per Regulation 7(1)(G) of the Visakhapatnam Port Employees (CCA) Regulations, the petitioner has to inform the employer about

the arrest and therefore non-information of his arrest is a major charge and therefore the punishment imposed is proportionate to the proved misconduct and hence the respondents pray to dismiss the writ petition.

Learned counsel for the petitioner contended that the petitioner is a Class-IV employee who is not well-versed with the service rules of the Port Trust and due to illiteracy he did not inform about his arrest in a criminal case which is nothing to do with the discharge of his official duties and hence he prays to set aside the same.

Insofar as the charge of not informing the employer is concerned, the petitioner-delinquent accepted that he failed to inform the respondents about his arrest. That is a misconduct as per the service regulations and that is not in dispute. No other contention has been raised by the learned counsel for the petitioner with regard to holding of any enquiry in regard to not following the principles of natural justice. So also it is not a case where the petitioner was denied any opportunity of participating in the enquiry or adducing any evidence. The only contention of the learned counsel for the petitioner is that the punishment is too harsh and severe. The criminal case which is registered against the petitioner is nothing to do with the discharge of his official duties as a Class-IV employee in the respondent-Port Trust. Due to family disputes, the wife of the petitioner is alleged to have given a report against him for cruelty. The same was registered as a case under Section 498-A IPC. Therefore, the registration of the case is nothing to do with the discharge of official duties of the petitioner. The only charge proved in the enquiry is that he failed to inform the employer soon after his arrest. Considering the stature of the petitioner and his duties and he being an illiterate, he might not have informed the respondents about his arrest. Therefore, this court is of the opinion that from the facts and circumstances the punishment imposed by the disciplinary authority and as confirmed by the appellate authority is disproportionate to the proved misconduct of the petitioner.

Hence the proceedings of the appellate authority dated 31.12.2002 are set aside and the matter is remitted to the appellate authority for taking appropriate decision with regard to the punishment only. The appellate authority shall pass necessary orders within a period of six weeks from the date of receipt of a copy of this order. The writ petition is accordingly allowed and remanded.

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Date: 22—06—2005 K.C. Bhanu, J.

MVB.

Rule is made absolute as above.

Witness The Hon'ble Sri Bilal Nazki, the Acting chief Justice on this Wednesday the Twenty Second Day of June, Two thousand and five only.

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Chairman, Visakhapatnam Port Trust
Visakhapatnam
2 Dy.Chairman, Visakhapatnam Port Trust,
Visakhapatnam
3 Traffic Manager, Visakhapatnam Port Trust & Disciplinary Authority,
Visakhapatnam

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